

Pursuant to the Court’s September 4, 2018 Order (Liability Order), *see* ECF No. 18, plaintiff Montana Health CO-OP (Plaintiff or Montana Health) and defendant, the United States, respectfully submit the following joint status report regarding further proceedings in this case.

In the Liability Order, the Court ruled that the United States was statutorily obligated to provide Montana Health with cost-sharing reduction (CSR) payments for the fourth quarter of 2017, and that this obligation was not vitiated by Congress’s failure to appropriate funds for that purpose. Accordingly, the Court granted Montana Health summary judgment as to liability, with quantum to be determined at a later date.

The parties have conferred regarding the quantum due to Montana Health. The United States represents that the Centers for Medicare & Medicaid Services (CMS) has reconciled the amounts it has paid to qualified health plan (QHP) issuers in advance CSR payments for benefit year 2017 against the amount of CSRs each respective issuer has paid on behalf of its insureds for benefit year 2017. The United States further represents that had a valid appropriation for CSR payments been available, the amount it would have owed Montana Health for the fourth

quarter of 2017, following benefit year 2017 reconciliation, is \$1,234,058.79. Montana Health does not dispute this calculation.

Based on the Government's representation and Montana Health's concurrence, and in consideration of the Court's Liability Order, the parties submit that no further briefing or discovery is required in this case. Montana Health respectfully requests that the Court enter a final order awarding Montana Health \$1,234,058.79, which represents the cost-sharing reduction payments that would have been due and owing to Montana Health for the fourth quarter of 2017 following reconciliation. Montana Health reserves the right to litigate future claims that may arise from the Government's failure to make payments under Section 1402 of the Patient Protection and Affordable Care Act, including for benefit years 2018 and 2019. In light of the Court's Liability Order, the United States does not object to the entry of an order regarding the quantum of damages. However the United States reserves all rights to seek further review of the Court's rulings in this matter.

Respectfully submitted,

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